

THE HON'BLE SRI JUSTICE GODA RAGHURAM

MONDAY, THE 23RD DAY OF JANUARY, 2006

W.P.No. 13221 of 2002

Between:-

The General Manager, The District Co-operative Central Bank Limited, Srikakulam,
Srikakulam district.

--Petitioner

And

The Assistant Labour Officer, Tekkali, Srikakulam district and another.

--Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13221 of 2002

Oral order:-

Heard Sri Koka Raghava Rao, learned counsel for the petitioner, learned Government Pleader for Labour for the first respondent and Mr. Bheem Rao, learned counsel for the second respondent.

This writ is directed against the order dated 01-02-2002 of the Authority under the Minimum Wages Act, 1948 (for short, 'the 1948 Act') and the Labour Officer, Palasa in M.W.No. 30 of 1994. The Authority, on an application of the second respondent herein for payment of difference of wages in the post of Water Boy-cum-Sweeper in the writ petitioner's organization, passed the impugned order directing the writ petitioner to deposit an amount of Rs.1,617-00 towards the difference between the wages paid and the minimum wages obligated to be paid by the writ petitioner to the second respondent. The case of the petitioner is that none of the government orders, relied on by the Authority, obligates the employer to pay the minimum wages to the 2nd respondent and that Co-operative Central Banks are excluded from the purview of the minimum wage notifications in the government orders cited in the order impugned. The substratum of the writ petitioner is that the first respondent has on a wrong and unsustainable interpretation of government orders, granted relief to the second respondent.

Section 17 of the Payment of Wages Act, 1936 (for short '1936 Act') provides an appellate remedy against an order of the primary authority made or purported to have been made under Section 15 of the Act. The petitioner has thus an effective alternative remedy and an appellate remedy at that. Sri Koka Raghava Rao, learned counsel for the petitioner states that the primary authority has patently no jurisdiction to award the difference of wages to the second respondent and, therefore, the writ

petition would lie. This contention is misconceived. Though the Authority under the 1948 Act exercising or purporting to exercise jurisdiction under Section 15 of the 1948 Act is a Tribunal of limited jurisdiction, such Tribunal has the jurisdiction, powers and authority to consider jurisdictional and other facts and come to a conclusion. On the mere apprehension that the Tribunal has come to a wrong conclusion, it would not be appropriate to hold that the Tribunal suffers from a patent lack of jurisdiction. A Tribunal or Court invested with powers and jurisdiction, acts within its jurisdiction whether it comes to a right conclusion or a wrong conclusion. If the Tribunal comes to a wrong conclusion, an appeal or revisional remedy when available under the Statute could be pursued. Merely because the first respondent has come to a wrong conclusion on what is alleged to be a mis-interpretation of government orders, it cannot be concluded that the first respondent suffers a patent lack of jurisdiction to adjudicate upon the claim presented by the second respondent.

On the aforesaid analysis, in view of the availability of an efficacious alternative remedy of appeal available to the writ petitioner, this court is not inclined to exercise extraordinary jurisdiction under Article 226 of the Constitution of India. The writ petition is dismissed preserving the liberty to the petitioner to pursue the appellate remedy. The petitioner may prefer an appeal within thirty (30) days from the date of receipt of a copy of this order and if the appeal is so preferred by the petitioner within the aforesaid time, the same shall be entertained and adjudicated upon, on merits by the appellate authority subject to the petitioner complying with any of the requirements under the Statute as to deposits of the amounts awarded by the order impugned. The petitioner is also at liberty to withdraw the amounts already deposited pursuant to the interim orders of this court dated 23-07-2002 in W.P.M.P.No. 16427 of 2002, by making an appropriate application to the Authority before whom the amount is so deposited. No costs.

GODA RAGHURAM, J

Dated: 23-01-2006

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